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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/849,594   | 05/04/2001  | Daniel J. Sorensen   | KCC-15,481          | 8899             |
| 35844  | 7590        | 11/10/2003           | EXAMINER            |                  |
| PAULEY PETERSEN KINNE & ERICKSON<br>2800 WEST HIGGINS ROAD<br>SUITE 365<br>HOFFMAN ESTATES, IL 60195 |             |                      | COLE, ELIZABETH M   |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 1771                |                  |

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                              |                  |
|------------------------------|------------------------------|------------------|
| <b>Office Action Summary</b> | Application No.              | Applicant(s)     |
|                              | 09/849,594                   | SORENSEN ET AL.  |
|                              | Examiner<br>Elizabeth M Cole | Art Unit<br>1771 |

-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 July 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1,3-10, 12-16, 18-29, 31 and 32 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,3-10, 12-16, 18-29, 31-32 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

1. Claims 1,3-10, 12-16, 18-29, 31-32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not provide support for the limitation "at least 0.21 inch". The specification at page 13 provides support for a pattern width range or 0.21 to 0.27, but does not provide support for the limitation "at least 0.21 inch".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10, 12-16, 18-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bridges et al, U.S. Patent No. 5,624,420 in view of EP 0,677, 284.

Bridges et al discloses a bonded material comprising first and second layers of liquid impermeable material which are at least partially overlapped and which comprise a plurality of ultrasonic bond points which bond the layers together. The bond points are aligned in at least two parallel rows and are offset from one another, see figs. 1A-1H. The point bonds may have a diameter of about 0.05 inches and the bond points may be spaced about 0.01 inches from each other. See col. 7, lines 23-55. The first and second layers may comprise plastic films and nonwoven webs. See col. 8, lines

22-57. A preferred material for the first and second layers is Series 6700 Nonwovens, which is a breathable material, (see col. 4, lines 17-35 of U.S. Patent No. 5,622,589). Bridges et al also discloses diapers, training pants and other hygiene articles which comprise the bonded material. Bridges et al also teaches a method of bonding two layers of liquid impermeable material comprising the steps of ultrasonically bonding the layers together with point bonds and displacing portions of each layer of material. See col. 7, lines 1-22. As seen in Fig. 1E, each of the bond points in each of the rows are equally spaced.

Bridges differs from the claimed invention because Bridges does not teach that at least one of the bond pints in each of the rows is equally spaced apart from at least three other bond points. However, Bridges does teach at col. 6, lines 25-41 that the size, shape and spacing of the bonds may be varied by those having ordinary skill in the art in order to balance the needs of strength and tearability, in view of the particular materials and processing parameters employed. EP '284 teaches that a configuration wherein at least one of the bonds points in each of the rows is equally spaced apart from at least three other bonds points as shown in fig. 4 as bond elements 25 allow a sufficiently strong, yet soft and flexible bonded material to be formed without the need for additional adhesive. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the bonds in Bridges according to the pattern shown in fig. 4 of '284. One of ordinary skill in the art would have been motivated to form the bonds according to the pattern of fig. 4 of '284

because this configuration of point bonds imparts excellent strength to the bonded material, while still being soft and flexible.

With regard to the limitation that the pattern width is at least 0.21 inches, Bridges discloses that the bonded region may comprise additional bond lines which are not illustrated in the figures. Bridges further teaches that one of skill in the art can select bond sites that shaped, sized, spaced and arranged so that they will sever the pants, yet retain sufficient girth strength. See col. 7, lines 40-47. Although the preferred embodiment illustrated in figures 1E and 1F of Bridges has a pattern width of less than 0.21, ( the Bridges example is 0.17 inches), since Bridges teaches that the shape, size, spacing and arrangement of the bond sites are result effective variables, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have optimized the shape, size, spacing and arrangement of the bond sites in order to arrive at a product having the desired strength and tearability.

Applicant's arguments filed 7/14/03 have been fully considered but they are not persuasive. Applicant argues that Bridges differs from the claimed invention because Bridges is directed towards forming tearable lines while the present invention is directed to creating a strong bond with a reduced likelihood of tearing and with the added feature of preventing leakage through the pattern of bonds. However, this argument is not persuasive because the claims do not contain limitations drawn to the bond strength or to reduce leakage. Also, although the Bridges bond areas are intended to tearable, it is reasonable to assume that Bridges would not want leakage to occur through the bond pattern during use of the diaper or training pant. Further, with regard to the pattern

width, Applicant's arguments are addressed above in the final paragraph of the art rejection. Additionally, it is noted that changes in size have been held to be *prima facie* obvious. *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

With regard to EP '284, Applicant argues that the reference is silent as to the bond pattern width and the size of the bond sites. However, EP '284 was not relied on for these features. Instead EP '284 was cited for its teaching regarding how the bond sites can be arranged relative to each other so that they are equally spaced and thus form a soft and strong bond without the need for using adhesive. Although the bond sites are formed in Bridges to make a tearable region, it would still have been desirable to have made the bonded regions soft and strong without the need for additional adhesive.

**2. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

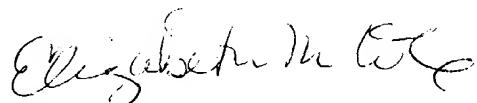
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (703) 308-0037. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (703) 308-2414.

Inquiries of a general nature may be directed to the Group Receptionist whose telephone number is (703) 308-0661.

The fax number for all official faxes is (703) 872-9306. The fax number for unofficial faxes is (703) 305-5436.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c